State Action Relating to

TAXATION OF FARMLAND ON THE RURAL-URBAN FRINGE

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UNITED STATES
DEPARTMENT OF AGRICULTURE
Economic Research Service

PREFACE

This report summarizes legislation enacted or considered by various State legislatures in an effort to cope with the problems of taxing agricultural lands lying in the path of urban expansion.

Pertinent sections of State laws and bills that deal with criteria for assessing such farmland are quoted in full or in part. Several States have sought to handle the problem without enabling legislation through special instructions to local tax assessors. Samples of these instructions in tax assessor manuals are contained in the appendix. No attempt is made, however, to evaluate either the desirability or the effectiveness of these various measures.

The report updates and broadens the scope of an article "Assessment of Farmland in the Rural-Urban Fringe," which appeared in the September 1960 issue of Agricultural Finance Review.

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BACKGROUND AND PURPOSE OF STUDY

The 1960 preliminary census reports indicate that the Nation's population has increased by about 28 million people or 18.5 percent since 1950. Most of this increase has occurred in standard metropolitan statistical areas but outside central cities. These suburban areas have gained some 18 million people, an increase of about 49 percent (table 1).

Table 1.--Population growth in and outside standard metropolitan statistical areas (SMSA), 1960 and 1950

Location	1960	1950	Increase, 1950 to 1960	
			Number	Percent
U. S. total	179,323,175	151,325,798	27,997,377	18.5
In SMSA's	112,885,178	89,316,903	23,568,275	26.4
Central cities	58,004,334	52,385,642	5,618,692	10.7
Outside central cities	54,880,844	36,931,642	17,949,583	48.6
Outside SMSA's	66,437,997	62,008,895	4,429,102	7.1

Bureau of the Census. Population of Standard Metropolitan Statistical Areas, 1960 and 1950. Census of Population, 1960, Sup. Rpts. PC-(S1)-1, p. 2. 1961.

A population shift of this magnitude directly affects farmers on the rural-urban fringe. As more people move to the suburbs, the demand for land on which to build houses, shopping centers, and schools generates a considerable increase in land values and these pressures are often translated into higher property taxes. When property is assessed in relation to its market value, as most State laws require, the assessed value is determined primarily by the selling prices of similar land in the area. Sales of farmland for nonfarm use begin to affect the potential value of the surrounding farmland. If selling continues, the highest and best use, or true market value, is no longer represented by farming but by more intensive uses such as subdivision. Local assessors then have little choice but to increase assessed values in a neighborhood; assessed values on the remaining farmland rise accordingly.

Movement out of the central city has brought other problems for rural communities. Not the least among these is the fact that suburbanites are essentially urban-oriented and desire urban-type services. This means that new water and sewerage systems, new and better roads, more schools, expanded police and fire protection, and similar community services will be needed. To build and maintain these services requires increased spending by local governments. Since local governments rely heavily on one source of revenue -- the property tax -- this source will need to produce most of the revenue.

Higher assessed values, often combined with increases in tax rates, lead to higher tax bills. However, the higher assessments created by suburbanization have no relation to farm output. They simply become an added fixed charge against farm income and make farming in the area less profitable. High taxes thus help to squeeze out the farmer. If he is able to absorb the higher taxes, he may be able to continue farming until the time is ripe to sell. However, few farmers have the holding power to wait; whatever capital they have is usually tied up in the farm. Therefore, they are forced to sell years before their land is to be used for subdivision.

High tax bills, the influx of suburban neighbors, and the chance for capital gains all encourage the farmer to sell his land to the highest bidder. Many times, land investors allow purchased farmland to remain idle until the area is ready for development. If this idle land is allowed to go to weeds, it gives the remaining farmers additional incentive to vacate their lands. It becomes, moreover, a local eyesore and a wasted resource.

Some States have attempted to meet the problem of forced selling of farmland by legislation which affects the assessment and taxation of these lands. Most of this legislation is designed to make it easier for farmers to continue farming until the land is ready for another use. Behind these laws is the widespread feeling that the uncontrolled withdrawal of farmland is one of the chief causes of suburban sprawl, and that legislation to hold down assessments on farmland is a primary step in the direction of planned and orderly suburbanization.

This report considers three major approaches adopted by various States: (1) preferential assessment, which attempts to value the property for tax purposes on the basis of current rather than potential use, (2) purchase of development rights which attempts to control directly the growth in an area, and (3) plans for deferring taxes due on land until it is sold out of its present use. An administrative approach in the form of special instructions to local tax assessors is noted in the appendix.

PREFERENTIAL ASSESSMENT

The plan that has received widest attention requires special assessment procedures for agricultural land. Four States -- New Jersey, California, Florida, and Maryland -- have enacted laws which require their assessors to value farmland on the basis of agricultural use regardless of other factors that may enhance its value.

New Jersey.--As part of a general statewide tax-revision plan, New Jersey enacted a preferential assessment law in 1960 (effective on July 1, 1961). In early 1961, the effective date was set back to July 1, 1962. The law states:

> In the assessment of acreage which is actively devoted to agricultural use, such value shall not be deemed to include prospective value for subdivisions or nonagricultural use. . . . 1/

California.--Legislation enacted in California uses zoning as a criterion for assessment of agricultural lands as follows:

> In assessing property which is zoned and used exclusively for agricultural, airport or recreational purposes, and as to which there is no reasonable probability of the removal or modification of the zoning restriction within the near future, the assessor shall consider no factors other than those relative to such use. 2/

Following enactment of this law, the Attorney General stated that in his view the section merely restated an accepted standard of valuation in California, and that the assessor was still required to use his own judgment with regard to value. 3/

Florida.--The Florida law pertaining to assessment of agricultural lands took effect on July 1, 1959, without the Governor's approval. It states:

> All lands being used for agricultural purposes will be assessed as agricultural lands upon an acreage basis, regardless of the fact that any or all of said lands are embraced in a plot of a subdivision or other real estate developments. Provided, "agricultural purposes" shall include only lands being used in a bona fide farming, pasture or grove operation by the lessee or owner, or some person in their employ. Provided shed nurseries, or nurseries under cover, will not be termed agricultural and will be excluded from this law. Lands which have not been used for agricultural purposes prior to the effective date of this law will be prima facie subject to assessment on the same basis as assessment for the previous year, and a demand for a reassessment of such lands for agricultural

1/ 1960 New Jersey Laws, Ch. 51, Sec. 54:4-1.
2/ 1959 California Laws, Vol. 1, Ch. 915, Sec. 1, p. 2948.
3/ California Attorney General Opinions. Ops. Atty. Gn. 30:246. 1959.

purposes will be subject to the severest scrutiny of the county assessor to the end that these lands will be classified properly. 4/

This law has been declared unconstitutional at the county level in Broward County. The case has been appealed to the Florida Supreme Court. On April 11, 1961, a bill was introduced in the legislature in an attempt to repeal the law. It was referred to the Committee on Finance and Taxation.

A second law permits the Boards of County Assessors to zone agricultural land exclusively for agricultural purposes as a criterion for preferential assessment:

> (1) The board of county commissioners of any county in the state is hereby authorized and empowered in its discretion to zone areas in the county exclusively used for agricultural purposes as agricultural lands; provided said lands have been used exclusively for agricultural purposes for five (5) years prior to such zoning.
>
> (2) In the event that the board of county commissioners zone said lands as provided in subsection (1) then the board shall notify the tax assessor on or before November 1 and the tax assessor shall immediately after the first day of January of the succeeding year and on the first day of January of each succeeding year prepare and certify to the board of county commissioners a list of lands in the county so zoned as agricultural lands.
>
> (3) The board of county commissioners shall examine said list and classification as shall be appropriate or justified, and as reclassified shall zone such lands in the county for tax purposes only as agricultural.
>
> (4) For the purposes of this section, "agricultural lands" shall include horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee and all forms of farm products and farm production.
>
> (5) The county tax assessor in assessing such lands so zoned and exclusively used for agricultural purposes as described and listed shall consider no factors other than relative to such use. The tax assessor in assessing land within this class shall take into consideration the following use factors only: The cost of the property as agricultural land, the present replacement value of improvements thereon, quantity and size of the property, the condition of said property, the present cash

4/ Florida Statute 193.11.

value of said property as agricultural land, the location of said property, the character of the area or place in which said property is located and such other agricultural factors as may from time to time become applicable.

(6) The board shall keep a record of such lands so zoned for tax purposes only and restricted for agricultural lands and shall remove such zoning restrictions whenever lands so zoned are used for any other purpose. 5/

This law has also been declared unconstitutional in Broward County and the decision appealed to the State Supreme Court.

Maryland.--A Maryland law enacted in 1956 over the Governor's veto has also stirred up much controversy. As originally enacted, it read:

. . . Lands which are actively devoted to farm or agricultural use will be assessed on the basis of such use, and shall not be assessed as if subdivided or on any other basis. 6/

In 1957, the law was repealed and reenacted to read:

Lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use, and shall not be assessed as if subdivided or on any other basis. The State Tax Commission shall have the power to establish criteria for the purposes of determining whether lands subject to assessment under this sub-section are actively devoted to farm or agricultural use by the adoption of rules and regulations. Such criteria shall include, but shall not be limited to, the following:

1. Zoning applicable to the land.

2. Present and past use of the land /INCLUDING LAND UNDER THE SOIL BANK PROVISIONS OF THE AGRICULTURAL STABILIZATION ACT OF THE UNITED STATES GOVERNMENT/.

3. Productivity of the land /INCLUDING TIMBERLANDS AND LANDS USED FOR REFORESTATION/.

5/ 1959 Laws of Florida. Vol. 1, Part 1, Ch. 59-226, H. 831.
6/ 1956 Maryland Laws, Ch. 9, Sec. 1. (H. 129).

4. The ratio of farm or agricultural use as against other uses of the land. 7/

The law became effective on June 1, 1957. On January 19, 1960, the Maryland Court of Appeals in the case of State Tax Commission v. Gales declared the law unconstitutional because it ". . . fails to meet two requirements of a valid tax exemption - reasonableness and public purpose." 8/ A month after the opinion was released, a motion for reargument was granted and the opinion recalled. On reargument, however, the original decision was reaffirmed.

In March 1960, the Maryland Legislature adopted a proposed amendment to the State Constitution stating that ". . . the Legislature may provide that land actively devoted to farm or agriculture shall not be assessed as if subdivided or on any other basis." 9/ This amendment was approved by the voters in the general election of November 1960.

In 1960, the State Tax Commission compiled and issued to counties a list of 29 criteria that must be considered before the assessor can grant preferential assessment:

1. Zoning applicable to the land.
2. Application for, and grants of, zoning reclassification in the area.
3. General character of the neighborhood.
4. Use of adjacent properties.
5. Proximity of subject property to metropolitan area and services.
6. Submission of subdivision plan for subject or adjacent property.
7. Present and past use of the land.
8. Business activity of owner on and off the subject property.
9. Principal domicile of owner and family.
10. Date of acquisition.
11. Purchase price.

7/ 1957 Maryland Laws, Ch. 680 (H. 769).
8/ State Tax Commission of Maryland v. Timothy W. Gales. No. 61, Atlantic Rpt. (2d ser.): 420-432. 1960.
9/ 1960 Maryland Legislature Assembly, reg. sess. Md. S. 70 referred to Committee on Rules.

12. Whether farming operation is conducted by the owner or by another for owner.

13. If conducted by another for owner, the provisions of the arrangement, written or oral, including, but not limited to, the term, area let, consideration and provisions for termination.

14. Farming experience of owner or person conducting farming operations for owner.

15. Participation in governmental or private agricultural programs or activities.

16. Productivity of the land.

17. Acreage of cropland.

18. Acreage of other lands (wooded, idle).

19. Number of livestock or poultry (by type).

20. Acreage of each crop planted.

21. Amount of fertilizer and lime used.

22. Amount of last harvest of each crop.

23. Gross sales last year from crops, livestock and livestock products.

24. Amount of feed purchased last year.

25. Months of hired labor.

26. Uses, other than farming operations, of the land.

27. Ratio of farm or agricultural use as against other uses of land.

28. Inventory of buildings, and condition of same.

29. Inventory of machinery and equipment, and condition of same.

As of the spring of 1961, the Commission was trying to establish more definitive criteria to be applied before granting preferential assessment.

OTHER PROPOSED LEGISLATION

Several other State legislatures have considered but have not enacted proposals to deal with this assessment problem.

Washington.--A proposed Senate joint resolution in 1959 provided:

> That lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use, and shall not be assessed on any other basis. 10/

Connecticut.--A Senate bill introduced in 1959 read:

> No municipality shall assess any land used in the occupation of agriculture at a higher value than the fair value of such land as used for agricultural purposes. 11/

Illinois.--A House bill introduced in 1959 stated:

> If used exclusively for agricultural purposes, (any real property) shall be valued on the same basis as other agricultural land in the assessment district, regardless of its location. 12/

Nevada.--A Senate bill introduced in 1960 states:

> In assessing property which is zoned and used exclusively for agricultural or recreational purposes, and as to which there is no reasonable probability of the removal or modification of the zoning restriction within the near future, the assessor shall consider no factors other than those relative to such use. 13/

DEFERRED TAXES

A second approach to alleviating an increase in farmland values has the same basic effect as preferential assessment, that is, lowering the farmer's tax bill. In addition, it attempts to recoup the taxes on the nonagricultural value of the land at the time of sale.

Indiana.--A proposal introduced in the Indiana Legislature uses planning as a criterion for applying a special tax deferral:

> (a) In an urbanizing area for which all or part of a comprehensive plan has been adopted the

10/ Washington 36th Legislature Assembly, reg. sess. Wash. S. J. Res. 18. 1959.
11/ 1959 Connecticut General Assembly, Senate. Conn. S. 672, as introduced by Senator Burns.
12/ Illinois 71st General Assembly, House. Ill. H. 404. 1959.
13/ 1960 Nevada Legislature Assembly, reg. sess. S. 54, referred to Committee on Taxation.

plan commission may at any time designate any land classified in an agricultural, industrial or recreational use district as an agricultural, industrial or recreational conservation district. A farm located in a conservation district shall receive a twenty percent deferral from taxes.

(b) The reclassification of a use district to other than agricultural, industrial or recreational uses shall revoke its prior designation, in whole or in part, as a conservation district. Without changing the applicable use classification the plan commission may also withdraw a farm from a conservation district, and may also declassify an area classified as a conservation district.

(c) When a farm is removed from a conservation district by a plan commission the tax deferrals that have been granted because of this classification shall terminate as of the taxes that become a lien in the year during which the removal takes place. However, accumulated tax deferrals are not payable until the farm is developed . . . .

The owner of farmland in a conservation district may apply for additional tax deferrals beyond the specified 20 percent under certain circumstances:

> The owner of a farm located in a conservation district may apply to the plan commission for an additional five per cent deferral from taxes. The application shall be accompanied by a written covenant running with the land, binding the owner of the farm to its use only for farm purposes for a period to be specified by the plan commission. The plan commission may grant the additional tax deferral, subject to the execution of the covenant with the owner of the farm.

The owner of farmland may defer as much as 55 percent of his taxes if his land becomes part of a "Community Facility Preserve."

> A public authority, having first obtained the written approval of the plan commission, may designate all or part of a farm or other open tract of land as a community facility preserve. "Community Facility Preserve" means any land which will be needed for a community facility in the reasonably foreseeable future. A farm or other open tract of land, when

> placed in a community facility preserve, shall receive an additional thirty per cent deferral from taxes. This additional tax deferral shall continue until the land is privately developed or is publicly condemned for the designated purpose, even though a tax deferral granted because of a farm's location in a conservation district is terminated for other reasons.

These deferred taxes become due when:

> Upon the private development of a farm located in a conservation district, and immediately following the grant of an application to develop privately land designated as a community facility preserve, all accumulated real property taxes are payable, without interest. When a tract or part of a tract to which a tax deferral has been granted is condemned by a public authority the total or pro rata part of any deferred real property taxes are payable, without interest. Deferred personal property taxes are payable, without interest, when a tract is privately developed, as provided above, or when all the tract is condemned by a public authority.

In case the deferred taxes are insufficient to cover the entire investment needed to serve the area to be developed, the bill allows that:

> A development charge may be levied by the plan commission upon the private development of land for residential purposes. 14/

Massachusetts.--A bill introduced in the Massachusetts Legislature in 1961 states:

> Upon recording of the certificate by the owner with the registry of deeds, the owners of "classified open land" shall receive a rebate of the real property taxes assessed upon the fair market value of said land, as follows: - For the first three years after registration of ninety per cent, for the succeeding seven years, of seventy per cent, and thereafter, of fifty per cent; provided, however, that whenever the restrictions on said "classified open land" or any part thereof are in any way relaxed through change of zoning, granting of a zoning exception or variance, change of the official map, or automatic release or other procedure for all or any part of such classified open land, the assessors shall notify the owner and record with the registry of deeds a notice of cancellation of the certificate, and

14/ 1959 Indiana Legislature Assembly. Rural Areas Conservation and Development Act of 1959.

> the portion of the taxes rebated, over the whole period during which the rebate has been in effect, shall become due and payable in the tax year during which such relaxation or change in the restrictions is made. 15/

LIMITED TAX DEFERRAL

Bills providing for partial deferral of taxes were introduced in the legislatures of four other States in 1961.

Nevada.--The bill of this State reads:

> In assessing real property which is used exclusively for agricultural purposes and which has been so used for at least 2 successive years immediately prior to the year of assessment, the assessor may consider no factors other than those relative to such use if the owner of the property agrees in writing with the assessor, prior to the completion of the assessment roll, that in the event the property is sold or used for some other purpose by such owner within a period of 5 years after the date of the agreement, the owner will pay in taxes an amount equal to the difference between the taxes paid or payable on the basis of the assessment made and any greater sum of taxes that would have been paid or payable for each year affected in the absence of any such agreement. . . . 16/

California.--The California bill is identical to that introduced in Nevada.

Oregon.--The bill of this State applies only to land in an area zoned for agricultural use:

> . . . farm land which is zoned exclusively for farm use (shall) . . . be assessed at its true cash value for farm uses and not at the true cash value it would have if applied to other than farm uses.

The difference in tax must be calculated and recorded against the property:

> If farm land subject to section 1 of this Act for assessment purposes has a true cash value for other than farm uses which is greater than its true cash value for farm uses, the county assessor shall

15/ 1961 Massachusetts Legislature Assembly. Mass. H. 850 by Mrs. Newman, Cambridge, Mass., petition of C. W. Elint.

16/ 1961 Nevada Legislature Assembly. Assembly B. 37.

> enter the difference in value, after reducing it by application of the county assessment ratio . . . .

Finally, if the land is sold out of agriculture the owner is required to pay the deferred taxes due on the land:

> The owner of any farm land zoned exclusively for farm uses . . . shall, before he may have such land withdrawn from zoning, pay to the tax collector of the county in which the property is located a withdrawal adjustment tax in a sum equal to the amount of additional taxes noted but not charged on such land . . . for the seven years previous to the current calendar year. 17/

Hawaii.--The first portion of the Hawaii bill sounds very much like a preferential assessment law:

> Initially, the owner of any land or any portion thereof in actual agricultural use and assessed as agricultural land as of January 1, 1961, may file with the assessor of the division in which the land is situated during the month of July 1961, a claim and return in such form as the director of taxation shall prescribe. For the years 1962 and 1963 the land or the portion thereof in respect of which the claim and return is filed shall be valued . . . at its highest agricultural use and any higher non-agricultural use shall not be considered.

The next portion requires that a study of land classification be made to be used as the basic criteria for granting a preferential assessment:

> The department of agriculture and conservation shall submit to the legislature twenty days before the regular session in 1963 convenes a written report containing a classification of agricultural land in which there is described the physical characteristics and the highest agricultural use of each class.

Finally, the bill requires that the director of taxation collect all deferred taxes for the previous 5 years when the land is sold out of agriculture:

> Any owner filing a return for his land on the basis of an agricultural use under this Act who subsequently changes the use of any part of such land from an agricultural to a nonagricultural use shall cause such land to be reassessed for the period of five years which immediately precedes the year in which the change in use occurs should the director

17/ 1961 Oregon 51st Legislature Assembly, reg. sess. Oreg. H. 1008.

of taxation find that the assessment but for this Act would have been higher in valuation. The five year assessment period shall not include taxable years prior to January 1, 1962. 18/

PURCHASE OF DEVELOPMENT RIGHTS

The third major method that may be used to decrease the present owner's tax bill involves giving up the development rights on the farmland.

The value of land in areas near large cities derives primarily from its potential worth as housing sites. Therefore, the market value of this land is largely reflected in one kind of property rights -- the right to develop. Because of the high value of these development rights for subdivision purposes, the potential value of farmland around metropolitan areas is much higher than can be justified on the basis of agricultural use. However, if the owner sells or gives these rights to some public body, like the city or county, the remaining rights in the property would be worth much less. Land would be available for agricultural purposes at the owner's discretion.

At least two States -- California and Maryland -- have enacted legislation to permit public acquisition of these development rights or "conservation easements." 19/ A similar bill has been introduced in the Connecticut Legislature.

California.--The California law allows a city or county to obtain development rights on a piece of land or to purchase the land outright and lease it back to the former owners:

> The Legislature hereby declares that it is necessary for sound and proper urban and metropolitan development, and in the public interest of the people of this State for any county or city to expend or advance public funds for, or to accept by, purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest or right in real property to acquire, maintain, improve, protect, limit the future use of or otherwise conserve open spaces and areas within their respective jurisdictions.
>
> The Legislature further declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced, and that any county or city may acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development right, easement, covenant or

18/ 1961 Hawaii Legislature Assembly. Hawaii. H. 367.
19/ Whyte, W. H., Jr. Securing Open Spaces for Urban America: Conservation Easements. Urban Land Inst. Tech. Bul. 36, 67 pp., illus. 1959.

other contractual right necessary to achieve the purposes of this chapter. Any county or city may also acquire the fee to any property for the purpose of conveying or leasing said property back to its original owner or other person under such covenants or other contractual arrangements as will limit the future use of the property in accordance with the purposes of this chapter. 20/

Maryland.--The Maryland law is similar to the California law in that it specifies that:

> The acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced. Any county or city, and the State Department of Forests and Parks, may acquire, by purchase, gift, grant, bequest, devise, or lease, the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to achieve this end. Any county or city, and the State Department of Forests and Parks, may also purchase or acquire by contract or gift the fee to any property for the purpose of conveying or leasing said property back to its original owner or other person under such covenants or other contractual arrangements as will limit the future use of the property in accordance with the purposes of this section.

However, the law limits the amount that can be used for these purposes as follows:

> The county or city shall not acquire any such fee or any such lesser interest in real property for the purposes aforesaid, by purchase or contract requiring a monetary consideration in excess of $500.00, until and unless the governing body of such county or city shall adopt a resolution or formal order declaring the public purpose or use therefor and after holding a public hearing respecting the same. 21/

Connecticut.--The bill introduced in Connecticut states:

> Any municipality may, by vote of its legislative body, and, if such municipality has a planning or planning and zoning commission or is included within the area of jurisdiction of any such commission, with the prior approval of such commission, by purchase, gift, grant, devise, lease or otherwise, acquire land,

20/ 1959 California Statute, reg. sess. Vol. 2, Ch. 1658.
21/ 1960 Laws of Maryland. Ch. 63 (H. 75).

> easements and interests or rights in real property, and enter into covenants and agreements with owners of land and owners of interests in land, to maintain improve, protect, limit the future use of or otherwise conserve open spaces or open areas within its boundaries. 22/

APPENDIX

Some States have attempted to handle the problem of determining rural land values within the framework of existing law. Special instructions in tax assessor manuals are intended as guidelines for accurately applying the ad valorem principle.

Those rural lands influenced by the proximity of new suburban developments have been described in various manuals as "rurban" land. This term, a composite of the two words rural and urban, describes how some assessment manuals handle the problem: they have assessed this "rurban" property as part rural and part urban.

A review of assessment manuals of selected States illustrates some of the difficulties surrounding the problem of rurban assessment and the variety of recommended assessment methods. Some manuals use locality as the test of land value, others the use that has been or is to be made of the land. One manual suggests that assessors consider the occupations of the occupants of the dwellings in the neighborhood as an indication of the use and value of the land.

The following selections taken from assessors' manuals of various States are designed for use by local assessors as a guide to the handling of rurban property.

Missouri.--The manual of this State has a brief section on "Rural and Unsubdivided Lands" which states:

> The standard unit valuation for rural and other nonindustrial unsubdivided lands is the acre. Exceptions to this rule obtain where unsubdivided lands front on a business or main thoroughfare, in which cases the applicable standard unit front foot bases apply. 23/

Minnesota.--This manual recognizes that a problem exists in distinguishing rural from urban property:

> Whether real property is "rural in character and devoted or adaptable to rural use," is a question of fact which must be determined in the first instance by the assessor. Obviously, if the property

22/ Connecticut House. Conn. H. 581. 1961.
23/ Jacobs, J. J., and Company. Real Estate Assessment Manual, Jackson County, Missouri, p. 25. Kansas City. 1940.

> is a farm surrounded by other farms, it is both rural in character and devoted to rural use. On the other hand, if the property is residential located in the middle of a builtup residential section in a city or village, it is neither rural in character nor devoted to rural use. These cases will give the assessor no difficulty. It is the cases between these two extremes which will give the assessor trouble, and in the determination of which he will have to use sound discretion and judgment. 24/

The manual further suggests that value may be determined on the basis of the general character of the neighborhood and refers specifically to the occupations of residents. The manual cites, as

> One of the best expressions by a court on the subject of the distinction between "rural" and "urban" real estate . . . the Pennsylvania Supreme Court in . . . City of Philadelphia v. Brady. 25/

> As regards liability for assessment, whether particular property is "rural" or "urban" depends on character of locality, streets, lots, improvements, and market value of property and neighboring property. In such case, if the buildings and improvements in the neighborhood are few and scattered, if they partake of the character of the country rather than of the city or town, and are occupied by persons engaged in rural pursuits, the locality should be considered "rural," but, if the houses and improvements partake of the character of the city or town, and are mainly occupied by persons engaged in city pursuits, the locality should be considered as "urban" and not "rural." 26/

New York.--The New York State manual has touched on this problem from two viewpoints. First, it lays down criteria for identifying rural residential land:

> Residence Land
>
> Land in connection with rural residences is usually small in area, judged by rural standards. Usually from 1/4 acre to 5 acres will be regarded as sufficient for the purpose and land in excess of that amount will have a value only slightly

24/ Minnesota Department of Taxation. Minnesota Assessors' Manual With Laws Governing Assessors' Duties, pp. 77-78. St. Paul. 1950.
25/ City of Philadelphia v. Brady. 162 Atl. 173.
26/ See footnote 24.

> greater than its agricultural value. Frontage on the highway has an influence on land value, varying in amount with the presence or absence of several factors.

The discussion goes on to describe the factors that govern values of rural residences:

> The factors which affect residential land values in rural areas are mainly related to location. Among others, are commuting distance to employment, rustic environment, character of surrounding properties, view, access to public utilities and transportation, all weather roads, distance to schools and churches, and social environment . . . .

Farmland in the same area, however, must be assessed by different standards:

> The underlying land value of isolated rural residence properties will usually show much higher acreage values than nearby farm acreage. This is because a residential purchaser will pay at a comparatively high acreage rate for only so much land as he needs for his residential use, but will not pay much more for land in excess of his needs . . . . Isolated residential properties may be valued on an acreage basis, but acreage values will usually be considerably higher than that of surrounding farm lands 27/

Assessors are also instructed on how to handle land in the process of development.

> Large Tracts of Land Awaiting or in Process of Development
>
> The value of tracts of land capable of subdivision is of course dependent upon demand, present or potential. Market data and comparison of market price must be the principal source from which unit values in terms of unit foot or acreage values are developed. In suburban areas frequently the frontage of such tracts along the main street or highway will be in more or less demand, but for the rear areas there is no present economic justification for development. If adjacent properties along the street are appraised on a unit foot basis, comparable unit foot values may be properly applied

27/ New York, Board of Equalization and Assessment. Assessors' Manual, State of New York. Vol. 1, pp. 30-33. Albany. 1957.

to the frontage along the highway of the large tract. Rear areas should be appraised at a proper acreage value. It is completely fallacious for the appraiser to lay-out and appraise hypothetical lots and streets in rear areas, in advance of actual demand for such lots. Moreover, it should be noted that the sale of a relatively small piece of highway frontage for a gas station or stand of some kind does not necessarily establish a value for all land along such highway. 28/

Louisiana.--The Louisiana manual has a short section addressed to the assessment of suburban land:

Suburban Land

Suburban land, whether in cultivation or not, is such land as has an enhanced value by reason of its proximity to cities, towns or villages, and assessors must fix values accordingly.

The Commission feels that this explanation will serve as a guide to assessors, who are requested to carefully value at proper worth this class of land, as it became apparent in the submission of abstracts in past years that much suburban land was improperly classed as agricultural land.

Suburban land as above mentioned does not apply to lands within the limits of incorporated cities or towns.

Specific instructions on land values have been given to each assessor covering values of land in his particular parish. 29/

Washington.--The State of Washington instructs its assessors as follows:

Typical sized farms lying within city limits, small tract, or subdivided areas should be valued on a soil group per acre basis as any rural property would be. There may be additional value to this farm property due to the possible use as residential, commercial, or industrial purposes. To appraise

28/ See footnote 27.

29/ Louisiana Tax Commission. Suggestions to the Assessors and Parish Board of Equalization for the 1939 Assessment, pp. 7-8. Baton Rouge. 1939.

> this condition, give a small tract factor and/or give a lot value to a portion of the farm . . . . Property in rural areas up to three acres in size should be treated as lots and value should be determined as the urban lots are . . . . However, distance from trading centers, type of roads, and other deductible factors may be needed to equalize this rural land with urban property. 30/

Finally, manuals of four States -- New Jersey, Kentucky, Illinois, and Iowa -- specifically spell out a method for dealing with rurban land. Although the approach to the problem is similar in each instance, differences appear in the amount of land to be classified on an acreage basis and the amount of land necessary to be classified as a farm, the latter varying from more than 20 acres in Illinois to more than 40 acres in Iowa and Kentucky.

New Jersey.--The New Jersey manual says:

> Establishment of rurban base unit land values combines both urban and rural procedures. The base units are front foot and acre. The rural and urban land value advisory committees give their opinions of the value per unit front foot on the highway and the acre value of land contiguous to the frontage. All customary market data in the nature of sales, asking prices and offers are also employed as evidence of value.
>
> Usually a frontage of 100 feet on the highway by a depth of 200 feet (approximately 1/2 acre) is given a unit front foot value. The balance up to 30 acres is given the classified acre value increased by a small tract additional value factor. Where a tract contains more than 30 acres it is considered a farm. This breaking point of 30 may be increased or decreased depending on local sales data. Corrections or adjustments are made for tracts on paved roads and for piped water and public sewer facilities which may be available.
>
> Examples of Areas Where Rurban Land Values Do Not Apply
>
> The rurban rules do not apply to thickly settled unincorporated communities or outlying subdivisions. Unit front foot land values are developed by the appraiser for such areas. 31/

30/ Washington State Tax Commission. Washington Rural Lands Appraisal Manual for use by Washington Assessors, pp. 29-31. Olympia. 1957.

31/ New Jersey, Department of Treasury. Real Property Appraisal Manual for New Jersey Assessors, pp. 46-47. Trenton. 1955.

Kentucky.--The manual of this State points out that:

> Rurban tracts are usually two acres or less located near a city or village and are desirable locations for residential, commercial or industrial property. The value of these tracts is generally much higher in relation to the regular per acre value assigned to rural tracts. Several methods may be used in attempting to reflect the true value of these tracts. Some of these are as follows:
>
> a. Assign a value to the first one-half acre as a building site; the remaining portion will be assigned a value based on the land class of the remaining portion; the first one-half acre is subtracted from the best land class in the tract.
>
> b. Assign a front foot value to these rurban tracts if they front on a main road or highway. This value may apply to depth of 200 feet then use regular land class value for the remainder.
>
> c. Apply the small tract rule as explained under the section Appraisal of Small Tracts.
>
> Appraisal of Small Tracts
>
> Appraisal of small tracts is a special problem, and as such requires special treatment. As a guide thirty-two and one-half acres may be considered the breaking point between a small tract and a farm. This will vary within counties in the State. 32/

Illinois.--Handling of rurban properties in the Illinois manual differs from that in the New Jersey manual only in that the small-tract rule applies just to properties having less than 20 rather than 32 1/2 acres:

> Usually a frontage of 100 feet on the highway by a depth of 200 feet (approximately 1/2 acre) is given an acre value (perhaps double the value for farming purposes) and the balance, if any, up to 20 acres is given the value of classified rural

32/ Kentucky Department of Revenue. Kentucky Real Property Appraisal Manual, p. 42. Frankfort. 1952.

land. If the tract contains more than 20 acres, it should be considered a farm. 33/

Iowa.--The Iowa manual recommends the same procedure except that 40 acres is the recommended breaking point:

> Usually a frontage of 100 feet on the highway by a depth of 200 feet (approximately 1/2 acre) is given the classified acre value increased by a small tract additional value factor. Where a tract contains more than 40 acres, it is considered a farm. This breaking point of 40 may be increased or decreased depending on local sales data. Corrections or adjustments are made for tracts on paved roads and for piped water and public sewer facilities which may be available. 34/

33/ Illinois Department of Revenue, Property Tax Division. State of Illinois, Real Property Assessment Manual, pp. 52-53. Springfield. 1958.

34/ Iowa Tax Commission, Property Tax Division, Iowa Real Property Appraisal Manual, pp. 104-105. Des Moines. 1959.

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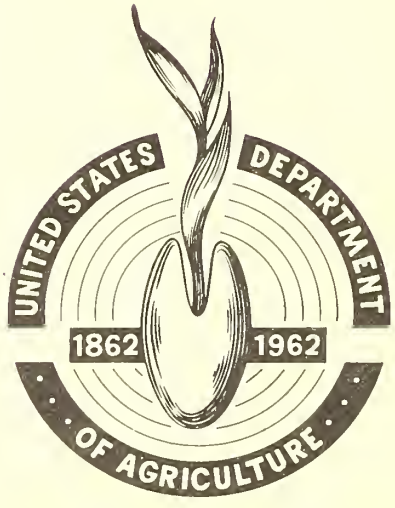

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